

SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

October 13, 2010

Robert A. Sublett
27499 Oak Meadows Dr.
Millsboro, DE 19966

RE: Robert A. Sublett v. Domino's Pizza
C.A. No. S10A-01-001-ESB
Letter Opinion

Date Submitted: July 23, 2010

Dear Mr. Sublett:

This is my decision on your appeal of the Unemployment Insurance Appeals Board's denial of your claim for unemployment benefits. You were employed as a delivery driver for Domino's Pizza. Domino's Pizza terminated your employment because you violated its rules regarding the operation of motor vehicles. Domino's Pizza has an Employee Handbook. It contains a section on Driver Safety Rules. The Driver Safety Rules provide that any driver who has more than three motor vehicle violations will be terminated. The Driver Safety Rules also require drivers to carry with them proof of vehicle insurance and registration. You signed a receipt acknowledging that you had received a copy of, understood, and would abide by the Driver Safety Rules. You received two speeding tickets and were involved in two motor vehicle accidents during your employment with Domino's Pizza. You were ticketed for six motor vehicle violations. You paid all of the tickets. Domino's Pizza terminated you after second motor vehicle accident. You then filed a claim for unemployment benefits. The Board found that Domino's Pizza had just

cause to terminate your employment, making you ineligible for unemployment benefits.

STANDARD OF REVIEW

The Supreme Court and this Court repeatedly have emphasized the limited appellate review of the factual findings of an administrative agency. On appeal from a decision of the UIAB, this Court is limited to a determination of whether there is substantial evidence in the record sufficient to support the Board's findings, and that such findings are free from legal error.¹ Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.² The Board's findings are conclusive and will be affirmed if supported by "competent evidence having probative value."³ The appellate court does not weigh the evidence, determine questions of credibility, or make its own factual findings.⁴ It merely determines if the evidence is legally adequate to support the agency's factual findings.⁵ Absent an error of law, the Board's decision will not be disturbed where there is substantial evidence to support its conclusions.⁶

¹ *Unemployment Ins. Appeals Board of the Dept. of Labor v. Duncan*, 337 A.2d 308, 309 (Del. 1975).

² *Oceanport Ind. v. Wilmington Stevedores*, 636 A.2d 892, 899 (Del. 1994); *Battista v. Chrysler Corp.*, 517 A.2d 295, 297 (Del. Super. 1986), *app. dismiss.*, 515 A.2d 397 (Del. 1986).

³ *Geegan v. Unemployment Compensation Commission*, 76 A.2d 116, 117 (Del. Super. 1950).

⁴ *Johnson v. Chrysler Corp.*, 213 A.2d 64, 66 (Del. 1965).

⁵ 29 Del.C. § 10142(d).

⁶ *Dallachiesa v. General Motors Corp.*, 140 A.2d 137 (Del. Super. 1958).

DISCUSSION

You argue that the Board's decision was incorrect because the accidents were not your fault and that you should not have been given the two speeding tickets because you were only going a couple of miles per hour over the speed limit. You got the first speeding ticket on December 16, 2005. You got the second speeding ticket on July 1, 2008. You were ticketed both times for exceeding the speed limit by five miles per hour. You paid both of the tickets. You were involved in a motor vehicle accident on May 17, 2009. You were ticketed for failing to drive at a speed appropriate for the conditions and for failing to have the motor vehicle insurance identification card in your possession. You paid the ticket. You were involved in another motor vehicle accident on June 17, 2009. You were ticketed for failing to yield the right-of-way to a vehicle approaching from the opposite direction and for failing to have the motor vehicle registration card in your possession. You paid the ticket. You testified that you were not at fault for any of the violations but that you paid the tickets because you do not like to argue with police officers. In Delaware, "[p]ayment of the prescribed fine, costs and penalty assessment is an admission of guilt, a waiver of the right to a hearing, and a complete satisfaction of the violation..."⁷ By paying the tickets you admitted that you violated the motor vehicle laws. "Just cause" is defined as a "willful or wanton act or pattern of conduct in violation of the employer's interest, the employee's duties, or the employee's expected standard of conduct."⁸ You were aware of your employer's Driver Safety Rules. Domino's Pizza terminated your employment

⁷ 21 *Del.C.* § 709(i)(1).

⁸ *Majaya v. Sojourner's Place*, 2003 WL 21350542, at *4 (Del. Super. June 6, 2003).

because you violated the Driver Safety Rules too many times, thus exposing Domino's Pizza to liability for allowing you to continue to drive a motor vehicle while in the course of your employment. The Board's decision that you were discharged for just cause is in accordance with the applicable law and based upon substantial evidence in the record.

CONCLUSION

The Board's decision is AFFIRMED.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

oc: Prothonotary's Office
cc: Domino's Pizza